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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/072,429      | 02/07/2002  | Jacques Fagot        | 1759.071            | 2615             |

7590 06/02/2004

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ALEXANDRIA,, VA 22314-2805

| EXAMINER |
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BLAU, STEPHEN LUTHER

| ART UNIT | PAPER NUMBER |
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3711

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/072,429

Applicant(s)

FAGOT, JACQUES

Examiner

Stephen L. Blau

Art Unit

3711

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 May 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.  
2. ☒ The proposed amendment(s) will not be entered because:  
(a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ they raise the issue of new matter (see Note below);  
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.  
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.  
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: As stated in the Final Office Action.

Claim(s) objected to: As stated in the Final Office Action.

Claim(s) rejected: As stated in the Final Office Action.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.  
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.  
10. ☐ Other: \_\_\_\_\_

Continuation of 2. NOTE: Removing the element of structure of "a position of at least one recess inside an upper wall varies in distance relative to said upper face" required further consideration and/or search .

Continuation of 5. does NOT place the application in condition for allowance because: With respect to the volume of recesses in relation to center of gravity changes, the argument that it is improper to use the reference of Peter because the examiner makes an admission to what is not stated and than assumes facts without citing any basis in Peters is disagreed with. The examiner was merely discussing what was not specifically stated in words. A disclosure however is more than what is specifically stated in words. There are drawings and things disclosed that imply facts though they are not specifically stated. In addition, one skilled in the art brings experience which would further produce other teachings not specifically stated. Figures 20 and 22 clearly show different amounts of recesses on a rear face. For one skilled in the art to compare these figures would clearly lead to one conclusion of the head in figure 22 having more weight added to the bottom of the head compared to the head in figure 20. Since these are different embodiments one skilled in the art would clearly assume that given everything else being the same except the recesses, the center of gravity of figure 22 would be lower compared to figure 20 due to the greater weight at the bottom of the head. Finally one skilled in the art of making the set of heads of Peters for the set of 158 would have to figure out how to make the center of gravity change for the clubs in this set (158) with essentially the same head type. Figures 20 and 22 show the method of changing the volume of the weights added to the bottom of the heads. This would be an obvious method useable to one skilled in the art for set 158 though not specifically stated due to what the drawings teach and what experience one skilled in the art brings to the patent of Peters. The center of gravity for the heads of Peters for set 158 must be changed somehow. The argument that it is improper to combine the references of Peters and Besnard because an insert is not a recess is disagreed with. Adding a cavity to a top of a head or adding a heavy insert to a cavity at a bottom of a head are two methods to accomplish the same thing that one skilled in the art would know to substitute between the other .

  
**STEPHEN BLAU**  
**PRIMARY EXAMINER**